



Missouri Department of Revenue

Tax Bulletin

Volume 5, No. 3

Fall 1996



'Directly' Speaking . . .

Greetings!

As you know, the Department has been involved in a number of modernization projects that will make it easier for individuals and businesses to file the necessary returns and make their payments. I would like to update you on a few of the new filing methods that we are piloting in these programs.

Telefiling — filing by telephone — is now available for filing withholding taxes. The Department began receiving these filings in August. Several hundred businesses have already requested informational packets about telefiling withholding taxes, and we are very encouraged by their response.

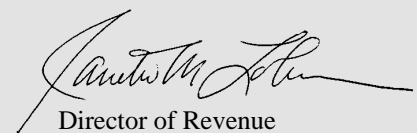
Very soon, businesses will also be able to file their sales tax returns using this method, beginning with zero-type sales tax returns. You will find a full update on telefile, with information on how you can learn more about this new program, in this issue of the *Tax Bulletin*.

For individual income tax returns, telefiling of the MO-1040A will be available during the next tax season.

The pilot projects for Electronic Data Interchange (EDI) transmission of withholding tax returns and payment are also going well. Five employers have successfully transmitted withholding tax returns and payments, and several others are now completing the registration process.

Electronic filing of these returns saves processing time for the Department and reduces businesses' filing time. The accuracy of these filings is also greater. If you are interested in participating in this new program, please contact the Tax Program Coordinator, P.O. Box 371, Jefferson City, MO 65105.

This issue of the *Tax Bulletin* includes a reader survey. I invite you to complete and return it with your comments. Your input is very valuable to us, so we hope you will share your ideas and suggestions with us.



Director of Revenue

Local Use Tax

by Ken Pearson, Administrator,
Tax Administration Bureau, (573) 751-3804

As summarized in the last issue of the *Tax Bulletin*, on June 4 the Department was restrained by the Cole County Court (Court) from issuing local use tax refunds and from withholding a portion of local sales tax distributions to local governments to pay the refunds. The suit was filed by 24 cities and 17 counties.

Several other interested parties also filed suit. St. Charles County filed a separate suit asking the Court to enjoin the Department from issuing refunds and from withholding a portion of sales tax distributions to local governments that received local use tax distributions. Bernadette Business Forms filed a suit asking the Court to order the Depart-

ment to issue all refunds. It also asked the Court to establish a receivership and order that all local use tax paid by taxpayers and distributed to local government entities be paid into a fund controlled by the receivership. Finally, it asked that the Court order the Department to release the names and addresses of every taxpayer that filed local use tax.

The Court consolidated the cases for hearing. It held in abeyance the establishment of a receivership. The Court did order the Department to send notification to all local use taxpayers that they may be due a refund. On July 19 the Department notified these taxpayers that they may be entitled to refunds of part or all of the additional 1.5 percent local use tax that was previously collected but determined by the Missouri Supreme Court to be unconstitutional.

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Local Use Tax

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The Court also ordered that the name of each taxpayer that filed a local use tax return be provided to the attorneys for Bernadette Business Forms. That order has been appealed to the Court of Appeals under a writ of prohibition. A decision is pending on this disclosure issue.

Litigation on the refund issues continues, with parties to the litigation filing briefs with the Court. In the interim, the Department continues to receive local use tax refund requests. As of September 19 the Department had received 8,096 refund applications, totaling \$103.7 million.

The Department has been preparing to implement the new local option use tax authorized in Senate Bill 981. During the August 6 election, 61 cities and 11 counties adopted local use taxes that were equal to the sales tax rates in effect in those cities and counties. The local use taxes became effective October 1. The Department has sent letters to all vendor and consumer use tax accounts, explaining the new local use tax and asking consumer use taxpayers to identify their use tax locations. The Department will use this information to register consumer use tax account locations. Out-of-state vendors will use the locations to determine the appropriate local use tax rate on their sales to Missouri customers.

If you have questions concerning local use tax refunds or implementation of a newly adopted local use tax, contact Kenneth M. Pearson or Pat Gifford at (573) 751-3804.

Common Errors in Electronically Filed Returns

by Maria Micke, Tax Program Coordinator, Central Processing Bureau,
(573) 751-3930

1. Form MO-8453 (signature document) is mailed without the supporting documentation (W-2 forms and other states' returns) attached.
2. Form MO-8453 is sent prior to the state acknowledgment of receipt of the return.
3. Form MO-8453 is sent when the tax return was not electronically filed.
4. Form MO-8453 is not sent in timely or in some cases, not at all.
5. Form MO-8453 is not signed.
6. Incorrect W-2 forms mailed with the Form MO-8453 or missing W-2 forms.
7. Income reflected on W-2 forms is not reflected on electronically filed return.
8. Social security numbers are transposed on Form MO-8453.
9. Incorrect bank account number provided.
10. Incorrect filing status.
11. Form MO-A is not transmitted.
12. Incorrect zip codes.

Common Mistakes on Missouri Individual Income Tax Returns

The following are the most common mistakes made on Missouri Individual Income Tax returns:

1. The tax return is not signed.
2. Necessary documentation is not attached. Examples: W-2, 1099-R, Federal return (Pages 1 and 2), Federal Schedule A, Form MO-A, MO-CR and other states' returns.
3. The amount claimed as Missouri tax withheld is not correct. City earnings tax and withholding from other states are erroneously claimed.
4. Mathematical errors.
5. The amount of Federal tax withheld is claimed as a deduction instead of the actual Federal tax liability.
6. Federal earned income credit is incorrectly claimed as a Federal tax deduction on Missouri returns.
7. The wrong filing status box is checked.
8. Total number of dependents claimed is incorrect. The filer incorrectly claims self or spouse as dependent. The number of dependents is not indicated in the box provided.
9. Missouri tax on taxable incomes over \$9,000 is incorrectly calculated.
10. Estimated tax payments are not claimed.
11. The incomes of husband and wife do not equal total Missouri adjusted gross income. Income percentages are incorrectly calculated.
12. The amount of standard deduction claimed does not correspond to filing status. Many Federal Form 1040EZ filers incorrectly include their Federal personal exemptions in the Missouri standard deduction on Form MO-1040A.



Missouri Department of Revenue

Mel Carnahan, Governor; Janette M. Lohman, Director of Revenue; Robert G. Schemenauer, Director Division of Taxation and Collection
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Letter Rulings

by General Counsel's Office, (573) 751-2633

This issue of the *Tax Bulletin* contains a listing of letter rulings issued during the period May 2, 1996 to August 30, 1996.

L8944	Label Machine	L9101	School Fund Program
L9026	Charitable Golf Tournament Tickets	L9137	Broadcast Services
L8812	Religious Bookstore Sales	L9090	Successorship
L8886	Material Recovery Processing Plants	L9165	Contractors
L8948	Credit Card Discounts	L9184	Political Subdivision Project
L8978	Nexus	L9144	Sales by Out-of-State Business
L8902	Partnership Apportionment	L9102	Liquid Nitrogen for Freezing
L9002	Research Lab and Expendable Supplies	L8987	Durable Medical Equipment
L9031	Magazine Sales	L9190	Training and Consultant Services
L8924	Computerized Cash Registers	L9213	Private Club
L9112	Copier Service	L9096	Repair Parts
L9082	Services (Fax, Use, Etc.)	L9111	Food Services - Airlines
L9044	Service Charges	L9113	Recycling
L8975	Covenant Not-to-Compete Payments	L9161	Artwork Consignment
L8985	Cable TV Equipment	L9166	Plant Expansion
L9011	Software		

Copies of the sanitized version of these letter rulings are available at a cost of \$1.10 plus sales tax of 6.225% each by writing to the Department of Revenue, General Counsel's Office, P.O. Box 475, Jefferson City, MO 65105-0475. Copies may also be obtained from the Department's Bulletin Board System (MODOR BBS (573) 751-7846.)

1996 Tax Form Changes

by Rob Davis, Printing Services Coordinator,
Office of Divisional Support Services, (573) 751-5855

In late spring, the Department began revising the 1996 tax forms. The Department reviewed and tracked legislation, worked with tax practitioners and developed new methods for individuals to file their returns. Listed below are the more significant revisions to the 1996 forms.

Tax Simplification Task Force - The Department has revised Form MO-1040, Step 6, to group the credit lines and payment lines together. In addition, two lines were added to Step 6. A separate line to enter nonresident partner and S corporation shareholder withholding has been added. Also, a total line for estimated tax payments and nonresident partner and S corporation shareholder withholding has been added. Form MO-A, Part 1, formerly the "Missouri Modifications to Federal Adjusted Gross Income" section, is now the "Missouri Itemized Deductions" section. Part 2, formerly the "Pension Exemption" section, is now the "Missouri Modifications to Federal Adjusted Gross Income" section. Part 3, formerly the "Missouri Itemized Deductions" section, is now the "Pension Exemption" section. In addition the revised flow of the form, the Department revised the Worksheet for Part 1 to eliminate duplicate work. The Department developed Form MO-NOL, Worksheet for Computing Net Operating Loss, to replace the use of Federal Form 1045 when computing and reporting a net operating loss.

Payment Voucher - Individuals with a balance due on their individual income tax returns (paper, electronically filed or telefiled) should remit their payments with Form MO-1040V, Individual Income Tax Payment Voucher. Form MO-1040V is similar to a payment statement used to make payments for utilities, loan payments and credit card payments. Using Form MO-1040V permits individuals to file now and pay later. The Department can process payments (balance due) more efficiently. Payment on electronically filed returns may be submitted with the Form MO-8453 or the MO-1040V.

United States Olympic Trust Fund - The Department removed the contribution line for the Olympic Trust Fund on Forms MO-1040, Form MO-1040A and Form MO-1120. The trust fund expired at the end of the 1995 tax year.

Processed Wood Energy Credit - The provisions of Section 135.300 to 135.311, RSMo, terminated on 6/30/95 and all unused credit could be claimed until 12/31/95. Therefore, the credit line for wood energy will not be on this year's Form MO-TC. However, House Bill 1237, passed in the 88th General Assembly, reinstates the Wood Energy Tax Credit for all tax years beginning on or after January 1, 1997. This legislation also expanded the credit to include charcoal. This new credit will appear on the 1997 Form MO-TC.

Property Tax Credit - House Bill 1098 revised Section 135.010, RSMo, to amend the qualifying definition of 100 percent disabled person claiming a property tax credit on Form MO-PTC. House Bill 1098 defines disabled as "the

see Tax Form Changes page 4

Rules Take Effect

by Vickie Wood, Legislative Secretary, Office of Legislation and Regulations, (573) 751-2110

There are several rules relating to taxes that either have recently gone into effect or will become effective in the near future. A short recap of each rule is listed below along with the rule number and remarks about the effective date of the regulation.

12 CSR 10-2.190 Partners & S Corporation Shareholders Composite Individual Income Tax Return Filing Requirements & Withholding of Income Tax. Amendment clarifies the procedure for withholding income tax on nonresident partners and S Corporation shareholders.

Published in the *Code of State Regulations*, effective 08/30/96.

12 CSR 10-2.710 Net Operating Losses on Individual Income Tax Returns. This rule explains the proper Missouri income tax treatment of net operating losses by individuals.

Published in the *Code of State Regulations*, effective 05/30/96.

12 CSR 10-2.720 Reporting Requirements for Individual Medical Accounts. This rule provides the reporting requirements for individual medical accounts.

Published in the *Code of State Regulations*, effective 07/30/96.

12 CSR 10-2.730 Expenses Related to Production of Tax Exempt Interest Income. This rule defines business expense reductions related to the production of exempt interest income pursuant to Sections 143.431.2 and 143.121.3(a), RSMo.

Proposed Rule - Appeared in the 09/03/96 *Missouri Register*. The 30-day comment period concluded on 10/03/96. The Department is reviewing the comments.

12 CSR 10-3.274 Farm Machinery and Equipment. This amendment clarifies the exemption for certain farm machinery and equipment as modified by the passage of Senate Bill 374 during the 1995 legislative session. A list of "usually taxable" and "usually exempt" items is contained in this rule. Senate Bill 374 states that equipment

and machinery should not lose its exempt status because the item is attached to a motor vehicle or real property.

Published in the *Code of State Regulations*, effective 05/30/96.

12 CSR 10-3.620 Review of Assessments by the Administrative Hearing Commission. This rule is amended to lengthen the time-period within which a taxpayer must appeal a final decision of the Department from 30 days to 60 days in accordance with Senate Bill 477 which was effective 08/28/94.

Published in the *Code of State Regulations*, effective 07/30/96.

12 CSR 10-3.896 Auctioneers, Brokers and Agents. This rule clarifies whether auctioneers, brokers and agents must collect sales tax on sales made on behalf of third parties.

Published in the *Code of State Regulations*, effective 05/30/96.

12 CSR 10-4.240 Administrative and Judicial Review. This rule is amended to lengthen the time-period within which a taxpayer must appeal a final decision of the Department from 30 days to 60 days in accordance with Senate Bill 477 which was effective 08/28/94.

Published in the *Code of State Regulations*, effective 07/30/96.

12 CSR 10-16.040 Tax Evidenced by Stamps. This amendment clarifies that the use of metering machines will no longer be permitted for indicating the payment of cigarette tax in the state of Missouri; only decal stamps will be permitted. This amendment will be effective 01/01/97.

Published in the *Code of State Regulations* 08/30/96, with an effective date of 01/01/97.

12 CSR 10-16.080 Use of Meter Machines. This rule is being rescinded because the use of metering machines will no longer be permitted for indicating the payment of cigarette tax in the state of Missouri; only decal stamps will be permitted. This rescission will be effective 01/01/97.

Published in the *Code of State Regulations* 08/30/96, with an effective date of 01/01/97.

12 CSR 10-41.010 Annual Adjusted Rate of Interest. This amendment establishes the 1996 annual adjusted rate of interest to be charged or paid on tax underpayments and overpayments at 9% as prescribed by Section 32.065, RSMo.

Published in the *Code of State Regulations*, effective 06/30/96.

12 CSR 10-41.010 Annual Adjusted Rate of Interest. This amendment is necessary to make the calendar year and interest rate consistent throughout the rule.

Order of Rulemaking - Published in the *Missouri Register* 10/15/96.

12 CSR 10-41.040 Retribution of Bad Checks. This amendment is necessary to make the interest rate consistent with the other supporting rules.

Order of Rulemaking - Published in the *Missouri Register* 10/15/96.

If you would like to receive a copy of any of the rules listed above, please contact the Secretary of State, Administrative Rules Division, P.O. Box 778, Jefferson City, MO 65102.

1996 Tax Form Changes

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inability to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A claimant shall not be required to be gainfully employed prior to such disability." In addition, House Bill 1098 amended the "residency" requirement of an individual claiming a property tax credit. If your spouse would have otherwise qualified for a property tax credit and would have been a resident for the entire 1996 calendar year, but died before the last day of the calendar year, you still qualify for the credit for 1996.

Missouri Cigarette Stamps Change

by Patricia Gifford, Manager, Tax Administration Bureau, (573) 751-3804

After January 1, 1997, the Department of Revenue (DOR) will no longer permit the use of metering machines for cigarette tax. Pitney-Bowes, the meter manufacturer, will no longer support the meters; therefore, Missouri's cigarette tax indicia will be heat applied decals (or stamps).

Many taxpayers are already familiar with the cigarette tax decal, having seen it for years. There are three basic decals sold by DOR for cigarettes sold 20 to a pack:

- state only decal, reflecting the 17-cent state tax.
- state and St. Louis County decal, 17-cent state tax plus the 5-cent county tax.
- state and Jackson County decal, 17-cent state tax plus the 5-cent county tax.

Decals are also available for the packs containing 25 cigarettes, reflecting the appropriate amount of tax.

There are over 100 municipalities in Missouri with a local cigarette tax. The local tax is collected entirely by the city. Some municipalities are considering continuing with a city stamp, which is sold by the city. And some municipalities are considering eliminating the city stamp and instead requiring a report from the wholesaler of the number of cigarettes sold in the city.

The Missouri Legislature passed House Bill 1098, allowing DOR to disclose certain cigarette tax information to municipalities. Cities anticipate verifying cigarette sales information received from wholesalers with information submitted to DOR. To help in providing this information to the cities regarding cigarette sales, DOR is changing its reporting forms to include sales information. This sales information will be separated by city location (for those cities having a local tax) and will be shared

with the cities that request the information. The Department mailed new forms to the wholesalers, and cities have also received forms to request the sales information. Wholesalers will begin using the new reporting forms with the October reports.

All meters must be taken to the meter setting location for "close out." DOR will issue credit toward decal

purchases for the unused state or county portion; however, wholesalers must contact the city for any credit of unused city tax meter settings. If anyone should have any questions or need further information or copies of forms, please contact Patricia Gifford, Manager, Miscellaneous Taxes, (573) 751-2008, P.O. Box 629, Jefferson City, MO 65105-0629.

Telefiling of Sales and Withholding Taxes

by Maria Micke, Tax Program Coordinator, (573) 751-3930

The Department's withholding tax telefile application is now available to anyone wishing to file withholding tax returns by telephone! The Department began receiving live transactions and payments July 31.

Telefile is an easy, fast, free and accurate way of filing withholding tax returns. It is available twenty-four hours a day, seven days each week. Telefile calls are made to a toll free number.

To be eligible to file withholding taxes by telefile, the employer must complete a Trading Partner Agreement and return it to the Department. Upon receipt of this agreement, the Department will issue the employer a Personal Identification Number (PIN) that will serve as the signature when filing by telefile. The employer will call the toll free telefile number and enter the PIN, identification numbers and the return information via the telephone as the telefile system prompts for each entry. At the completion of the

call, the telefile application will provide the employer with a confirmation number. This number can be used when referencing any telefiled transaction with the Department. If the employer owes withholding taxes, an Automated Clearing House Credit transaction must be initiated for payment to be transferred to the Department's bank account. The return information and money is all electronic, eliminating all paper.

The Department is also developing a telefile application for filing sales tax returns. The Department anticipates that telefile of zero single location sales tax returns will be available in the near future.

To obtain more information about the telefile programs or to request a Trading Partner Agreement, please contact Maria Micke, Tax Program Coordinator, P.O. Box 371, Jefferson City, Missouri 65105-0371 or call (573) 751-3930.

Court Cases

by General Counsel's Office,
(573) 751-2633

Sales Tax

Blevins Asphalt Construction Company v. Director of Revenue, Case No. 94-002095RV (AHC, 4/26/96).

Blevins Asphalt Construction Company (Taxpayer) manufactured, sold, and installed asphalt paving products. Taxpayer purchased the materials and ingredients it used in its paving products under a claim of the manufacturer's component part exemption.

Taxpayer manufactured "hot mix" and "cold mix" asphalt and sold some of this asphalt at retail. Taxpayer

entered into contracts with customers for delivery and installation of these asphalt products using its own workers and equipment. Taxpayer purchased various items of paving, rolling and other installation machinery and equipment under a claim of the manufacturing exemption of Section 144.030.2(5), RSMo.

This case involved the following issues:

(1) Was a retail sale between Taxpayer and an out-of-state customer presenting Taxpayer an exemption certificate authorized by an out-of-state taxing authority subject to Missouri sales tax;

(2) Must Taxpayer self-accrue sales and use tax on the purchase cost of the ingredients and materials it consumed in manufacturing the asphalt used to fulfill contracts with exempt entities

for the sale of asphalt on an installed basis;

(3) Was the paving, rolling and other installation equipment purchased by Taxpayer exempt from Missouri sales and use tax pursuant to Section 144.03.2(5).

The Administrative Hearing Commission (AHC) decided all three issues in favor of the Department. Issue 1, the AHC found Taxpayer should have collected and paid Missouri sales tax on the retail sale transactions with out-of-state exempt entities. The AHC stated that the presentation of foreign exemption certificates did not affect the substantive taxability of the transactions in Missouri and that Taxpayer's acceptance of the certificates did not trigger the "safe harbor" of Section 32.300, RSMo. Issue 2, the AHC found Taxpayer, as a contractor, was the final "user and consumer" of the ingredients and materials used to manufacture the asphalt. Taxpayer was liable for the sales and use tax due on the purchase cost of the materials, even if the manufactured asphalt was used in fulfilling a contract with an exempt entity. Issue 3, the AHC found Taxpayer was not entitled to claim the exemption of Section 144.030.2(5), RSMo, on its purchases of paving, rolling, and installation equipment. The AHC noted that Section 144.030.2(5), RSMo, requires machinery and equipment be used to manufacture a product to be sold for final use or consumption. The paving, rolling and installation equipment was used as the means by which Taxpayer installed its manufactured asphalt and not used to manufacture a product to be sold for final use or consumption.

The AHC concluded that while Taxpayer was liable for all the tax and interest assessed, it was not liable for additions to tax. See **Hewitt Well Drilling & Pump Serv., Inc. v. Director of Revenue**, 847 S.W.2d 795 (Mo. banc 1993); **Sipco, Inc. v. Director of Revenue**, 875 S.W.2d 539 (Mo. banc 1994).

Sales Tax

Colman H. Kraus vs. Director of Revenue, Case NO. 95-001388RV (AHC, 4-1-96).

Colman H. Kraus (Taxpayer) filed a complaint challenging the Director's Final Decision that he was liable as a former corporate officer for the unpaid sales tax, interest and additions of Colman's Grant Village for the periods 10/1993 through 4/1994. The Administrative Hearing Commission (AHC) stated that factors which show control, supervision or responsibility include holding a management position, receiving or responding to tax notices, and signing tax registrations, returns and checks to pay taxes.

The AHC found Taxpayer held a management position as president and was one of two directors of the corporation. Although he did not receive or become aware of tax notices until the corporation failed to pay the tax which was due, he had signed the corporation's sales tax registration and checks, and assumed responsibility for filing the returns and making payment of the sales tax. The AHC also found he had control and supervision for filing returns and making payments of the sales tax due by the corporation.

As of the date the Director assessed the corporation's liability against Taxpayer, no one had filed sales tax returns or paid sales tax on behalf of the corporation for the periods at issue. The Director had already assessed the corporation's estimated liability against the Taxpayer personally by the time sales tax returns for the corporation were filed. The AHC concluded that pursuant to Section 144.157.3, RSMo, a responsible party could not avoid liability under Section 144.157.3 simply by filing returns late. Therefore, the Director correctly assessed the Taxpayer for the corporation's estimated unpaid sales tax, interest and additions for 10/1993 through 4/1994.

Income Tax

Michael David and Cathy Jo Wunder v. Director of Revenue, Case No. 95- 002568RI (AHC, 9/11/96).

The question in this case was whether Michael David and Cathy Jo Wunders (Taxpayers) were part-year residents of the state of Missouri or full-year residents of the state of Missouri. During the first half of the tax year the Taxpayers resided in London, England. Prior to moving to England, the Taxpayers had lived in St. Louis. The Taxpayers lived in England for a period of nearly four years before moving back to St. Louis. The Administrative Hearing Commission determined that their physical presence in England, combined with their intent to remain there permanently or indefinitely, was enough to cause their domicile to change to England. Because they were found to be domiciled in England, the Taxpayers qualified as nonresidents of Missouri for the first half of the tax year, and could file a tax return as part-year residents.

Sales Tax

Concord Publishing House, Inc. f/k/a Cape Mississippi Development, Inc. d/b/a Southeast Missourian v. Director of Revenue, No. 77894 (Mo. Sup. Ct. 2/20/96).

This matter involved an appeal taken by the Department from a decision of the Missouri Administrative Hearing Commission (AHC). During the majority of the period covered by the assessments issued by the Department, the taxpayers were separate corporate entities. Cape Mississippi Development/Southeast Missourian published a newspaper and the Concord Publishing House engaged in the commercial printing business. Over several years, Southeast Missourian purchased various pieces of machinery and equipment to be used in the preparation of the newspaper for printing. Among the equipment were computers for use in the office and in the field by reporters. It purchased some computer equipment which it transferred to newspapers operated by sister corporations. Southeast Missourian produced a negative of the newspaper which was sent to Concord Publishing for printing. Southeast Missourian argued that the equipment it purchased for use in preparation of the

newspaper was exempt under Section 144.030.2(4) (product and design change) and (5) (plant expansion).

The Department argued that Concord did not engage in manufacturing a final product for sale but created a product which it used itself. The Department argued that since the taxpayer did not create (manufacture) a new product for sale, it could not claim benefit of the manufacturing exemptions. The AHC found that the taxpayer was engaged in manufacturing despite the fact that an independent corporation was actually manufacturing (printing) the newspaper. The AHC found the two separate corporations to be an integrated plant. The Department appealed the decision to the Missouri Supreme Court (Court).

The Court affirmed the substance of the AHC's decision, although it reversed as to some equipment. The Court stated that two separate corporations can create an integrated plant. It extended the boundaries of the manufacturing process in the area of newspaper publication and the Court stated equipment purchased for plant expansion need not be purchased at the time of expansion but can be purchased in anticipation of future expansion.

Sales Tax

Mid-America Dairymen, Inc. v. Director of Revenue, 924 S.W.2d 280 (Mo. banc 1996).

Mid-America Dairymen, Inc. (Taxpayer) appealed to the Missouri Supreme Court (Court) a decision of the Administrative Hearing Commission (AHC). The Taxpayer was seeking a determination that a part of its business operations qualified as "processing" under Section 144.030.2(12), RSMo, and that its electrical usage in the processing qualified for exemption under the same statute. The Court stated that previous cases interpreting Section 144.030.2(12), RSMo, failed to adequately address the legal questions raised by that section and had failed to provide clear guidance to the Director and the AHC as the reviewing tribunal.

The Court stated that "processing," like manufacturing, "consists of the alteration or physical change of an object or material in such a way that produces an article with a use, identity, and value different from the use, identity, and value of the original." See **Galamet, Inc. v. Director of Revenue**, 915 S.W.2d 331 (Mo. banc 1996). The Court clarified "end product", referred to in Galamet as an "article with a use, identity, and value different from the use, identity, and value of the original." This end product, according to the Court, is tied into deciding whether a taxpayer is engaged in primary or secondary processing. The Court stated the end product must be marketable.

The Court stated that the proper analysis of "primary" and "secondary" processing depends on the end product. If there is only one end product, there can only be primary processing. It found that secondary processing could only exist when there was a product that had been created by a prior process (primary processing). The Court concluded that "to obtain the exemption for the electricity used in the processing of a particular product, the Taxpayer must first identify 'the product' in question, its location in the multistage production

Mid-America

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chain, and then trace back to the immediately preceding marketable product, the appearance of which marks the delineation between primary and secondary processing of the 'product.' "

The Court ruled the case should be remanded to the AHC for a new hearing in light of its legal analysis for determining eligibility for the exemption under Section 144.030.2(12), RSMo.

Taxpayer Assistance Department of Revenue Field Offices

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Kansas City, MO 64106-4039
(816) 889-2944

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300 E. Northtown Road, Suite B
Northtown Shopping Center
P.O. Box 964
Kirksville, MO 63501-0964
(816) 785-2412

St. Joseph

State Office Building, Rm 314
525 Jules
St. Joseph, MO 64501-1900
(816) 387-2230

St. Louis

2510 South Brentwood, Suite 300
Brentwood, MO 63144-2391
(314) 968-4740

Springfield

State Office Building, Rm 313
149 Park Central Square
Springfield, MO 65806-1386
(417) 895-6474

Important Phone Numbers

Form ordering (toll free) . . . (800) 877-6881
Form order questions (573) 751-5337
Forms by Fax (573) 751-4800
Department of Revenue Bulletin
Board System (573) 751-7846
Electronic Filing
Information (573) 751-3930
Individual Income/Property
Tax Credit Refund
Inquiry Line (800) 411-8524
Internet Address
. <http://www.state.mo.us/dor>

Tax Calendar Due Dates for October 1996 – January 1997

October

- 3 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 10 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 15 Form MO-1120 & Form MO-1120S
with an Automatic Extension
Cigarette Tax Credit Account and Return
Form MO-1065 & Form MO-1041 with
an Approved Extension
Other Tobacco Products Monthly
Reports
- 18 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 21 Cigarette Tax Cash Accounts Return
- 25 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 30 Quarterly Insurance Tax Payments
- 31 Monthly Sales/Use Tax Returns
Quarterly Sales/Use Tax Returns
Quarter-Monthly Withholding
Reconciliation
Quarterly Withholding Returns
Monthly Withholding Returns
Motor/Special Fuel Reports
Tire Fee
Quarterly Interstate Fuel Tax User
Report

November

- 5 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 13 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment

- 15 Quarter-Monthly Withholding
Reconciliation
Monthly Withholding Returns
Cigarette Tax Credit Account and Return
Other Tobacco Products Monthly
Reports
Calendar Year Trusts with an Automatic
Extension to file 1996 Form MO-1120
- 20 Monthly Sales/Use Tax Returns
Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
Cigarette Tax Cash Accounts Return
- 27 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment

December

- 2 Motor/Special Fuel Reports
Quarterly Insurance Tax Payments
- 4 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 11 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 16 Declaration of Estimated Tax for
Calendar Year Corporations
Quarter-Monthly Withholding
Reconciliation
Monthly Withholding Returns
Cigarette Tax Credit Account and Return
Other Tobacco Products Monthly
Reports
- 20 Monthly Sales/Use Tax Returns
Cigarette Tax Cash Accounts Return
- 26 Quarter-Monthly Sales Tax

- Quarter-Monthly Withholding Payment
- 31 Motor/Special Fuel Reports

January

- 2 Motor/Special Fuel Reports
- 6 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 10 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 16 Declaration of Estimated Tax for
Calendar Year Corporations
Cigarette Tax Credit Account and Return
Other Tobacco Products Monthly
Reports
- 21 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 22 Cigarette Tax Cash Accounts Return
- 27 Quarter-Monthly Sales Tax
Quarter-Monthly Withholding Payment
- 30 Quarterly Insurance Tax Payments Due
- 31 Monthly Sales/Use Tax Returns
Quarterly Sales/Use Tax Returns
Annual Sales/Use Tax Returns
Quarter-Monthly Withholding
Reconciliation
Quarterly Withholding Returns
Monthly Withholding Returns
Annual Withholding Returns and Annual
Withholding Reconciliation
Motor/Special Fuel Reports
Tire Fee
Quarterly Interstate Fuel Tax User
Report



MISSOURI DEPARTMENT OF REVENUE
DIVISION OF TAXATION AND COLLECTION
MISSOURI TAX FORM AND PUBLICATION ORDER

FORM
MO-33
(REV. 8-96)

DLN

The Missouri Department of Revenue's Form MO-33 is designed to assist you in ordering Missouri state tax forms.

Any combination of ten (10) forms, with the exception of listed tax publications, may be ordered without charge. To offset shipping, handling and printing costs, orders exceeding a total of ten (10) forms must be accompanied by payment of \$10.00 per hundred forms (or fraction thereof) requested. Please use the price chart at the bottom of this page when figuring the amount due. Tax publications, which are sold at a set cost per unit, may also be ordered on the bottom of this page.

Orders will be filled and shipped in the order received, as soon as all requested forms and publications are available for distribution. Partial shipments, with the exception of the Missouri Package Mo-X, will not be made. Orders may be submitted at any time. We do, however, ask that you order your entire anticipated annual supply at one time. In order for our office to provide you with your forms and publications in a timely manner, please place your order prior to December 1, 1996. Forms will be shipped approximately January 1, 1997. If you place an order for 1996 tax forms, a 1997 order form will automatically be sent to you in September, 1997.

NOTE: ANY ORDER RECEIVED WITHOUT CORRECT PAYMENT, INCLUDING SALES TAX, WILL BE RETURNED TO YOU UNPROCESSED.

ELECTRONIC FORMS AND PUBLICATIONS

Forms by Fax: The major 1996 Missouri tax forms will be available by fax December 1, 1996. To access our "Fax on Demand" system call (573) 751-4800 from your fax machine handset. The "Fax on Demand" system will take you through the steps necessary to fax you a copy of the forms you need, if available. Only current year forms are maintained on the "Fax on Demand" system.

Missouri Department of Revenue Bulletin Board (MODOR BBS): The Missouri Department of Revenue has its own on-line Bulletin Board. To access the Bulletin Board the number is (573) 751-7846. The Department provides most tax forms, tax publications, law changes, the *Tax Bulletin* and many other informational articles available on the Bulletin Board.

Internet/World Wide Web: The Missouri Department of Revenue has established a presence on the Internet with its Home Page on the World Wide Web. Individuals with access to the Internet can obtain informational materials and Missouri tax forms via our Home Page. The address for our Home Page is: <http://www.state.mo.us/dor>

ADDRESS INFORMATION (PLEASE PRINT OR TYPE)

COMPANY NAME

ATTENTION (IF NEEDED)

PHONE NUMBER

STREET ADDRESS (PLEASE DO NOT USE POST OFFICE BOXES)

CITY

STATE

ZIP CODE

COMPLETE THE REVERSE SIDE OF THIS FORM FIRST. THEN PROCEED BELOW.

TAX PUBLICATIONS (Note: Items D, F, H, J, L and N include the updates if complete law booklet is ordered)

	PUBLICATION NAME	COST PER PUBLICATION	REVISION DATE	AMOUNT REQUESTED	TOTAL
A	Package Mo-X/DOR Tax Bulletin Subscription (Combination of B and C below)	\$ 14.00	1996		
B	Package Mo-X - Contains 1996 Missouri Tax Forms (DOR-2056)	\$ 8.50	1996		
C	<i>Tax Bulletin</i> Subscription - Published 3 times yearly	\$ 6.00	1997		
D	Income Tax Law Booklet (DOR-1909)	\$ 7.00	1995		
E	Income Tax Law Booklet Update (DOR-1909U)	\$ 2.00	1996		
F	Sales/Use Tax Law Booklet (DOR-1780)	\$ 7.00	1995		
G	Sales/Use Tax Law Booklet Update (DOR-1780U)	\$ 2.00	1996		
H	Financial Institution Tax Law Booklet (DOR-2850)	\$ 7.00	1995		
I	Financial Institution Tax Law Booklet Update (DOR-2850U)	\$ 2.00	1996		
J	Motor/Special Fuel Tax Law Booklet (DOR-2269)	\$ 7.00	1995		
K	Motor/Special Fuel Tax Law Booklet Update (DOR-2269U)	\$ 2.00	1996		
L	Cigarette & Tobacco Products Tax Laws & Rules Booklet (DOR-1899)	\$ 7.00	1995		
M	Cigarette & Tobacco Products Tax Laws & Rules Booklet Update (DOR-1899U)	\$ 2.00	1996		
N	Estate Tax Law Booklet (DOR-2330)	\$ 7.00	1995		
O	Estate Tax Law Booklet Update (DOR-2330U)	\$ 2.00	1996		
P	Camera Ready Copies of Missouri Income Tax Forms and Instructions - Books 1-7	\$ 18.00	1996		
Q	Form 2643 - Missouri Tax Registration Application (1-3 Free)	\$ 3.50	1995		
R	1996 Missouri Tax Forms and Instructions on Diskette <input type="checkbox"/> Windows <input type="checkbox"/> Mac	\$ 12.00	1996		
S	1996 Missouri Tax Forms and Instructions on CD-ROM <input type="checkbox"/> Windows <input type="checkbox"/> Mac	\$ 12.00	1996		
TOTAL PUBLICATIONS ORDERED AND TOTAL COST OF PUBLICATIONS					

PRICE CALCULATIONS

- Total number of forms ordered (from back of form)
- Cost of forms ordered (see price chart on the right)
- Cost of publications ordered (from above)
- Sub Total (add Lines 2 and 3)
- Tax (multiply Line 4 by 6.225%)
- TOTAL DUE (add Lines 4 and 5)

PRICE CHART

No. of Forms	Cost
0-10	Free
11-100	\$ 10.00
101-200	\$ 20.00
201-300	\$ 30.00
301-400	\$ 40.00
Each Add'l 100	\$ 10.00

After completion, send this form with a check or money order made payable to "Director of Revenue" to: MISSOURI DEPARTMENT OF REVENUE, P.O. BOX 3022, JEFFERSON CITY, MO 65105-3022.

INDIVIDUAL INCOME TAX FORMS				CORPORATION INCOME TAX FORMS			
	AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION		AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION
A		MO-1040/MO-A	Individual Income Tax Return and Adjustments	A		MO-1120	Corporation Income Tax Return
B		MO-1040A	Individual Income Tax Return Short Form	B		MO-1120X	Amended Corporation Income Tax Return
C		MO-60	Application for Extension of Time To File	C		MO-2220	Corporation Underpayment of Estimated Tax
D		MO-CR	Credit for Income Taxes Paid to Other States	D		MO-1120ES	Declaration of Estimated Tax for Corporations
E		MO-NRI	Nonresident Income Percentage	E		MO-MS	Corporation Allocation and Apportionment of Income
F		MO-CRP	Certification of Rent Paid	F		DOR-8821	Authorization for Release of Confidential Information
G		MO-PTC	Property Tax Credit Claim	G		DOR-472A	Application for Tax Credit/Refund
H		MO-1041	Fiduciary Income Tax Return	H		MO-C	Missouri Dividends Deductions
I		MO-NRF	Nonresident Fiduciary Form	I		MO-1120S	S Corporation Income Tax Return
J		MO-1065	Partnership Return of Income	J		MO-NRS	S Corporation Nonresident Form
K		MO-NRP	Nonresident Partnership Form	K		MO-MSS	S Corporation Allocation and Apportionment Form
L		MO-2210	Underpayment of Estimated Tax By Individuals	L		MO-TC	Miscellaneous Income Tax Credits
M		MO-1040ES	Estimated Tax Declaration for Individuals	M		DOR-2827	Power of Attorney
N		DOR-1937	Request for Photocopy of Missouri Income Tax Return				TOTAL CORPORATION INCOME TAX FORMS ORDERED
O		DOR-374	Statement of Nonresidency				
P		DOR-558	Military Information				
TOTAL INDIVIDUAL INCOME TAX FORMS ORDERED				EMPLOYER'S WITHHOLDING TAX FORMS			
	AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION		AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION
SALES/USE TAX FORMS				A		MO-941	Employer's Report of Income Taxes Withheld
A		DOR-53-1	Sales Tax Return	B		MO-941X	Withholding Tax Overpayment Amended Report
B		DOR-53U-1	Use Tax Return	C		MO-941U	Withholding Tax Underpayment Amended Report
C		DOR-126	Registration Change Request	D		MO-941XX	Quarter-Monthly Amended Withholding Tax Return
D		DOR-472	Request for Sales/ Use Tax Cash Bond Refund	E		MO-941P	Quarter-Monthly Payment of Income Taxes Withheld
E		DOR-472-B	Application for Tax Refund/Credit	F		MO-941R	Annual Reconciliation Report of Income Taxes Withheld
F		DOR-1746	Missouri Sales/Use Tax Exemption Application	G		MO-941F	Employer's Withholding Final Report
G		DOR-149	Multi-Jurisdiction Sales Tax Exemption Certificate	H		MO-941W	Monthly Report of Quarter-Monthly Payments
TOTAL SALES/USE TAX FORMS ORDERED				I		DOR-2034	Application for Withholding Tax Refund
				J		MO-W4	Employee's Withholding Allowance Certificate
				K		MO-96	Annual Summary and Transmittal of Form MO-99
				L		MO-99 MISC	Information Return for Recipients of Miscellaneous Income
				TOTAL EMPLOYERS WITHHOLDING TAX FORMS ORDERED			
<p>Questions concerning the completion of this form, or form and publication orders in general, may be addressed by calling (573) 751-5337, Monday through Friday, 7:45 a.m. to 4:45 p.m. Orders for a total of ten (10) or less forms may also be made by calling (800) 877-6881. These publications are available upon request in alternative accessible formats, TDD 1-800-735-2966.</p>							

Customer Service Survey

1. The Department has eight taxpayer service field offices throughout the state. Have you used any of the field offices during the past year?

☐ Yes ☐ No

If you answered yes, please rate the service you received:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

2. The Department conducted a program to contact practitioners directly for missing documentation. If the required documents were not attached to an individual's return, the Department telephoned authorized practitioners for the missing documentation. Were you contacted?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

3. The Department has a 24-hour Forms by Fax service (573-751-4800) for individual income tax forms. Have you called our Forms By Fax line?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

4. Did you call the Forms Order Line (800-877-6881 or 573-751-5337) during the 1996 individual income tax filing season?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

5. Did you call the Individual Income Tax Assistance/Refund Line (573-751-3505) during the 1996 individual income tax filing season?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

6. Did you call the Individual Income Tax Refund Inquiry Line (800-411-8524) during the 1996 individual income tax filing season?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

7. During the past year, have you called the Central Registration Information Line (573-751-5860) with business-related registration questions?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

Comments: _____

8. Have you participated in the Internal Revenue Service's Electronic Filing Program?

☐ Yes ☐ No

9. Have you participated in the joint IRS/Missouri Electronic Filing Program?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average
☐ Average ☐ Below Average ☐ Poor

Comments: _____

10. How does the service you received from the Department in 1996 compare with the service you received in 1995?

☐ Better ☐ Same ☐ Worse

Comments: _____

Please answer the following questions if you have a tax practice:

11. Number of clients your business serves:

☐ 0-100 ☐ 101-500 ☐ 501 and up

12. Taxes your business prepares:

☐ Individual ☐ Corporate
☐ Sales ☐ Withholding
☐ Other(specify)

13. Location of most of your clients:

☐ St. Louis Area ☐ Kansas City Area
☐ Outstate ☐ Out-of-state

Optional:

NAME _____

STREET ADDRESS _____

CITY, STATE _____

ZIP CODE _____

The Department is conducting a survey of the services available to our customers. Please take the time to complete the survey and return it to the Missouri Department of Revenue, Tax Bulletin, P.O. Box 629, Jefferson City, MO 65105-0629, or by facsimile to (573) 751-9287. Thank you.

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Missouri Department of Revenue
P.O. Box 629
Jefferson City, MO 65105-0629

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